

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850



Center for Medicaid and State Operations

RECEIVED

OCT 15 2007

DEPARTMENT FOR MEDICAID SERVICES
OFFICE OF THE COMMISSIONER

SEP - 5 2007

Mr. Shawn M. Crouch
Commissioner
Cabinet For Health and Family Services
Department For Medicaid Services
275 E. Main Street, 6W-A
Frankfort, KY 40621

Dear Mr. Crouch:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 07-004. This amendment modifies the State's payment methodology for setting payment rates for nursing home services. Specifically, the amendment revises the per diem rate paid to nursing facilities with Medicaid certified brain injury units from \$360.00 to \$475.00. The amendment also added a provision for an annual increase in the rate based on an inflation index published by Global Insight, Inc.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(13), 1902(a)(30), 1903(a) and 1923 of the Social Security Act and the implementing Federal regulations at 42 CFR Part 447. We have found that the proposed changes in payment methodology comply with applicable requirements and therefore have approved them with an effective date of April 1, 2007. We are enclosing the CMS-179 and the amended approved plan pages.

Under regulations at 42 CFR 430.12(c)(i), States are required to amend State plans whenever necessary to implement changes in Federal law, regulations, policy interpretations, or court decisions. On May 25, 2007, CMS placed a final rule, CMS-2258-FC (Cost Limit for Providers Operated by Units of Government and Provisions to Ensure the Integrity of Federal-State Financial Partnership) on display at the Federal Register and that can be found at 72 Fed. Reg. 29748 (May 29, 2007) that would modify Medicaid reimbursement. Because of this regulation, some or all of the payments under this plan amendment may no longer be allowable expenditures for federal Medicaid matching funds. Public Law 110-28, enacted on May 25, 2007 instructed CMS to take no action to implement this final regulation for one year. CMS will abide by the time frames specified by the statute. Approval of the subject State plan amendment does not relieve the State of its responsibility to comply with changes in federal laws and regulations, and to ensure that claims for federal funding are consistent with all applicable requirements.

If you have any questions, please call Venesa Johnson at (410) 786-8281 or Stanley Fields at (502) 223-5332.

Sincerely

Dennis G. Smith
Director

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATIONFORM APPROVED
OMB NO. 0938-0193**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL**1. TRANSMITTAL NUMBER:
07-0042. STATE
Kentucky

FOR: HEALTH CARE FINANCING ADMINISTRATION

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE
SOCIAL SECURITY ACT (MEDICAID)TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES4. PROPOSED EFFECTIVE DATE
April 1, 2007

5. TYPE OF PLAN MATERIAL (Check One):

☐ NEW STATE PLAN☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:
42 C.F.R. 447.272

7. FEDERAL BUDGET IMPACT:

a. FFY 2007 - \$244,476

b. FFY 2008 - \$488,953

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Attachment 4.19-D, Exhibit B, page 31

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (If Applicable):

Same

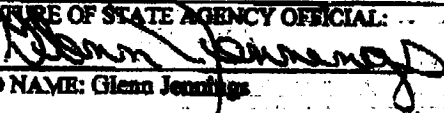
10. SUBJECT OF AMENDMENT:

This plan amendment increases the rate paid to nursing facilities with Medicaid certified brain injury units that provide specialized rehabilitative services for persons with brain injuries from a fixed rate of \$360 to \$475 per diem.

11. GOVERNOR'S REVIEW (Check One):

☐ GOVERNOR'S OFFICE REPORTED NO COMMENT☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL☒ OTHER, AS SPECIFIED: Review delegated
to Commissioner, Department for Medicaid
Services

12. SIGNATURE OF STATE AGENCY OFFICIAL:



13. TYPED NAME: Glenn Jennings

14. TITLE: Commissioner, Department for Medicaid Services

15. DATE SUBMITTED: June 29, 2007

16. RETURN TO:

Department for Medicaid Services
275 East Main Street 6W-A
Frankfort, Kentucky 40621

FOR OFFICIAL USE ONLY

17. DATE RECEIVED:

18. DATE APPROVED:

9-5-07

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:

APR - 1 2007

20. SIGNATURE OF REGIONAL OFFICIAL:

Bill Brown to D.S.

21. TYPED NAME:

William Lasowski

22. TITLE:

Deputy Director, CMSO

23. REMARKS:

nursing home reform costs incurred during the period July 1, 1990, through September 30, 1990; however, the actual costs incurred shall be subject to tests of reasonableness and necessity and shall be fully documented at the time of the request for rate adjustment. Facilities may request multiple preauthorizations and rate adjustments (add-ons) as necessary for implementation of nursing home reform. Facility costs incurred prior to July 1, 1990, shall not (except for the costs previously recognized in a special manner, i.e., the universal precautions add-on and the nurse aid training add-on) be recognized as being nursing home reform costs. The special nursing home reform rate adjustments shall be requested using forms and methods specified by the Department for Medicaid Services a nursing home rate adjustment shall be included within the cost base for the facility in the rate year following the rate year for which the adjustment was allowed. Interim rate adjustments for nursing home reforms shall not be allowed for period after June 30, 1993. For purposes of the July 1, 1992 and July 1, 1993 rate setting, all amounts associated with OBRA rate adjustments for the preceding rate year shall be folded into the applicable category of routine cost. All nursing home reform rate adjustment requests shall be submitted by September 30, 1993.

SECTION 330. PAYMENT OF SPECIAL PROGRAM CLASSES

A. BRAIN INJURY UNIT

1. A nursing facility with a Medicaid certified brain injury unit providing pre-authorized specialized rehabilitation services for persons with brain injuries shall be paid at an all-inclusive (excluding drugs which shall be reimbursed through the pharmacy program) fixed rate which shall be set at \$475 per diem for services provided in the brain injury unit. The rates shall be increased or decreased based on the Global Insight Healthcare Cost Review, 1st Quarter Edition Index from the CMS Nursing Home without Capital Market Basket, Moving Average using the second quarter in the rate year.
2. A facility providing pre-authorized specialized rehabilitation services for persons with brain injuries with rehabilitation complicated by neurobehavioral sequelae shall be paid an all inclusive (excluding drugs) negotiated. The negotiated rate shall be a minimum of the approved rate for a Medicaid certified brain injury unit or a maximum of the lesser of the average rate paid by all payers for this service or the facilities usual and customary charges.
3. In order to participate in the Medicaid program as a Brain Injury Provider, the facility shall:
 - (a) Be Medicare and Medicaid certified;
 - (b) Designate at least ten (10) certified beds that are physically contiguous and identifiable; and,
 - (c) Be accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF)